

1-1 By: King S.B. No. 1709  
1-2 (In the Senate - Filed March 7, 2023; March 16, 2023, read  
1-3 first time and referred to Committee on Border Security;  
1-4 April 4, 2023, reported favorably by the following vote: Yeas 5,  
1-5 Nays 0; April 4, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Birdwell	X		
1-9	Flores	X		
1-10	Blanco	X		
1-11	Hinojosa	X		
1-12	King	X		

1-13 A BILL TO BE ENTITLED  
1-14 AN ACT

1-15 relating to the prosecution of the offenses of sedition and  
1-16 engaging in organized criminal activity; increasing criminal  
1-17 penalties.

1-18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-19 SECTION 1. Section 557.001, Government Code, is amended by  
1-20 amending Subsection (a) and adding Subsection (b-1) to read as  
1-21 follows:

1-22 (a) A person commits an offense if the person knowingly:

1-23 (1) commits, attempts to commit, or conspires with one  
1-24 or more persons to commit an act intended to overthrow,  
1-25 destabilize, destroy, or alter the constitutional form of  
1-26 government of this state or of any political subdivision of this  
1-27 state by force, ~~or~~ violence, or a threat of force or violence;

1-28 (2) under circumstances that constitute a clear and  
1-29 present danger to the security of this state or a political  
1-30 subdivision of this state, advocates, advises, or teaches or  
1-31 conspires with one or more persons to advocate, advise, or teach a  
1-32 person to commit or attempt to commit an act described in  
1-33 Subdivision (1); or

1-34 (3) participates, with knowledge of the nature of the  
1-35 organization, in the management of an organization that engages in  
1-36 or attempts to engage in an act intended to overthrow, destabilize,  
1-37 destroy, or alter the constitutional form of government of this  
1-38 state or of any political subdivision of this state by force or  
1-39 violence.

1-40 (b-1) Notwithstanding Section 15.02(d), Penal Code, a  
1-41 conspiracy to commit an offense under this section is punishable in  
1-42 the same manner as an offense under this section.

1-43 SECTION 2. Section 71.02, Penal Code, is amended to read as  
1-44 follows:

1-45 Sec. 71.02. ENGAGING IN ORGANIZED CRIMINAL ACTIVITY. (a) A  
1-46 person commits an offense if, with the intent to establish,  
1-47 maintain, or participate in a combination or in the profits of a  
1-48 combination or as a member of a criminal street gang or  
1-49 transnational criminal organization, the person commits or  
1-50 conspires to commit one or more of the following:

1-51 (1) murder, capital murder, arson, aggravated  
1-52 robbery, robbery, burglary, theft, aggravated kidnapping,  
1-53 kidnapping, aggravated assault, aggravated sexual assault, sexual  
1-54 assault, continuous sexual abuse of young child or disabled  
1-55 individual, solicitation of a minor, forgery, deadly conduct,  
1-56 assault punishable as a Class A misdemeanor, burglary of a motor  
1-57 vehicle, or unauthorized use of a motor vehicle;

1-58 (2) any gambling offense punishable as a Class A  
1-59 misdemeanor;

1-60 (3) promotion of prostitution, aggravated promotion  
1-61 of prostitution, or compelling prostitution;

1-62 (4) unlawful manufacture, transportation, repair, or

2-1 sale of firearms or prohibited weapons;  
 2-2 (5) unlawful manufacture, delivery, dispensation, or  
 2-3 distribution of, or unlawful possession with the intent to deliver  
 2-4 a controlled substance or dangerous drug, or unlawful possession of  
 2-5 a controlled substance or dangerous drug through forgery, fraud,  
 2-6 misrepresentation, or deception;  
 2-7 (5-a) causing the unlawful delivery, dispensation, or  
 2-8 distribution of a controlled substance or dangerous drug in  
 2-9 violation of Subtitle B, Title 3, Occupations Code;  
 2-10 (6) any unlawful wholesale promotion or possession of  
 2-11 any obscene material or obscene device with the intent to wholesale  
 2-12 promote the same;  
 2-13 (7) any offense under Subchapter B, Chapter 43,  
 2-14 depicting or involving conduct by or directed toward a child  
 2-15 younger than 18 years of age;  
 2-16 (8) any felony offense under Chapter 32;  
 2-17 (9) any offense under Chapter 36;  
 2-18 (10) any offense under Chapter 34, 35, or 35A;  
 2-19 (11) any offense under Section 37.11(a);  
 2-20 (12) any offense under Chapter 20A;  
 2-21 (13) any offense under Section 37.10;  
 2-22 (14) any offense under Section 38.06, 38.07, 38.09, or  
 2-23 38.11;  
 2-24 (15) any offense under Section 42.10;  
 2-25 (16) any offense under Section 46.06(a)(1) or 46.14;  
 2-26 (17) any offense under Section 20.05 or 20.06;  
 2-27 (18) any offense under Section 16.02; or  
 2-28 (19) any offense classified as a felony under the Tax  
 2-29 Code.  
 2-30 (b) Except as provided in Subsections (c), ~~and~~ (d), and  
 2-31 (e), an offense under this section is one category higher than the  
 2-32 most serious offense listed in Subsection (a) that was committed,  
 2-33 and if the most serious offense is a Class A misdemeanor, the  
 2-34 offense is a state jail felony, except that the offense is a felony  
 2-35 of the first degree punishable by imprisonment in the Texas  
 2-36 Department of Criminal Justice for:  
 2-37 (1) life without parole, if the most serious offense  
 2-38 is an aggravated sexual assault and if at the time of that offense  
 2-39 the defendant is 18 years of age or older and:  
 2-40 (A) the victim of the offense is younger than six  
 2-41 years of age;  
 2-42 (B) the victim of the offense is younger than 14  
 2-43 years of age and the actor commits the offense in a manner described  
 2-44 by Section 22.021(a)(2)(A); or  
 2-45 (C) the victim of the offense is younger than 17  
 2-46 years of age and suffered serious bodily injury as a result of the  
 2-47 offense;  
 2-48 (2) life or for any term of not more than 99 years or  
 2-49 less than 30 years if the most serious offense is an offense under  
 2-50 Section 20.06 that is punishable under Subsection (g) of that  
 2-51 section; or  
 2-52 (3) life or for any term of not more than 99 years or  
 2-53 less than 15 years if the most serious offense is an offense  
 2-54 punishable as a felony of the first degree, other than an offense  
 2-55 described by Subdivision (1) or (2).  
 2-56 (c) Notwithstanding Section 15.02(d), a conspiracy  
 2-57 [Conspiring] to commit an offense under this section is punishable  
 2-58 in [is of] the same manner as an offense under this section [degree  
 2-59 as the most serious offense listed in Subsection (a) that the person  
 2-60 conspired to commit].  
 2-61 (d) At the punishment stage of a trial, the defendant may  
 2-62 raise the issue as to whether in voluntary and complete  
 2-63 renunciation of the offense he withdrew from the combination before  
 2-64 commission of an offense listed in Subsection (a) and made  
 2-65 substantial effort to prevent the commission of the offense. If the  
 2-66 defendant proves the issue in the affirmative by a preponderance of  
 2-67 the evidence the offense is the same category of offense as the most  
 2-68 serious offense listed in Subsection (a) that is committed~~[, unless~~  
 2-69 ~~the defendant is convicted of conspiring to commit the offense, in~~

3-1 ~~which event the offense is one category lower than the most serious~~  
3-2 ~~offense that the defendant conspired to commit].~~

3-3 (e) An offense that is punishable as a second degree felony  
3-4 or as any lower category of offense under Subsection (b) is one  
3-5 additional category higher than the category listed under  
3-6 Subsection (b) if the person used or exhibited a deadly weapon  
3-7 during the commission of one or more of the offenses listed under  
3-8 Subsection (a) and if an offense is punishable as a Class A  
3-9 misdemeanor under Subsection (b), the offense is a state jail  
3-10 felony.

3-11 (f) In this section, "transnational criminal organization"  
3-12 means two or more persons with an identifiable leadership who  
3-13 operate internationally and who continuously or regularly  
3-14 associate to engage in corruption, violence, or the commission of  
3-15 other criminal activities.

3-16 SECTION 3. The change in law made by this Act applies only  
3-17 to an offense committed on or after the effective date of this Act.  
3-18 An offense committed before the effective date of this Act is  
3-19 governed by the law in effect on the date the offense was committed,  
3-20 and the former law is continued in effect for that purpose. For  
3-21 purposes of this section, an offense was committed before the  
3-22 effective date of this Act if any element of the offense occurred  
3-23 before that date.

3-24 SECTION 4. This Act takes effect September 1, 2023.

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